Section 8, clause (d).

Mr. Ferguson.—I beg to propose that the words "local standards and" be inserted between "verifying" and "weights." These words occur in the British Act and might, in my opinion, be adopted with advantage.

Seconded by Mr. Rajaram Row.

Carried.

Mr. Rajaram Row.—I beg to propose that the Bill as now amended be read again on a future day of which notice shall be given.

The motion was put and agreed to.

BILL FOR THE PREVENTION OF CRUELTY TO ANIMALS.

Mr. Ferguson.—I beg to move that the Report of the Select Committee on this Bill be taken up for consideration.

Seconded by Mr. Rajaram Row.

Carried.

Section 1, clause (2).

Mr. Kuruvila.—With the kind permission of the President, I beg to submit for the consideration of the Council the amendments circulated in my name. Before dealing with each amendment in detail, I beg to assure the Council that I do not suggest these amendments in any spirit of opposition to the principle of the Bill. On the other hand, I yield to none in the appreciation of the noble maxim അഹിംസാ പരമോ ധർമ്മഃ, extending our love and compassion to all creatures that can be imagined as having individual growth or development. My suggestions are simply intended to ensure the proper administration of the proposed Regulation and to prevent the Council appearing to slight cruelty to *men* in its zeal to avert cruelty to the lower *animals*. The Bill before us must be admitted to have certain peculiar characteristics with which the local public are not yet familiar in the ordinary course of legislation. Firstly, the complainant against the guilty action rendered punishable by this Bill is not the sufferer. Secondly, the cruelty and ill-treatment rendered punishable are, to the oriental mind, less heinous than the immediate destruction considered by section 10 as a proper action. Thirdly, the Bill proposes to interpose a third party to sit in judgment over the dealings of an owner with that which he considers his absolute property and in which no other person has a monetary interest. Fourthly, of the five sections defining guilty actions, one alone (section 7) contemplates actions causing material loss to society, while all the others refer to injury to society in the sentimental sphere, making the definitions vague and the judicial discretion not uniform. To prevent public consternation in uncivilised areas, it is therefore very desirable that the legislature should confine the discretionary application of the law by Government to those towns only where the higher public at least have begun to sympathise with the spirit of the Bill. The existence of a public society like the one referred to by the humane mover in his speech at the introduction of the Bill will not only be a guarantee for public support in the administration of the law but will also prevent the Police from sullying their reputation by interference in this direction. The existence of an infirmary, with the services of a professional veterinary surgeon, is also a condition presumed for the administration of section 6 of the Bill. I beg, therefore, to move my first amendment for your kind acceptance, *viz*:—

'In section 1, clause (2), substitute "such towns as have a society for the prevention of cruelty to animals and an infirmary with a professional veterinary surgeon for their treatment" for "such local area as he thinks fit."'

Seconded by Mr. Dharmaraja Iyer.

Mr. Ferguson.—I am afraid I cannot agree to this amendment and I trust the Council will not do so. I hope that this Regulation may be gradually extended to the whole of Travancore but if the amendment now proposed is carried, it will

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practically restrict the application of the law to the town of Trivandrum. I fail to see why small acts of cruelty should not be put down anywhere. I have myself seen, in Poojapuray, men applying chillies to the eyes of bulls and should have liked to be able to stop the practice. As it is outside the municipal town, the law cannot be put in force there, if it is restricted to towns. The discretion given to the Government by the section is, in my opinion, a sufficient guarantee for the law being applied gradually to areas where it can be conveniently worked. I fear, the amendment, if carried, will almost annihilate the Bill.

Mr. Govinda Pillai.—It seems to me that the establishment of an infirmary is a necessary condition for taking action under section 6, clause (3). What Mr. Kuruvila says is that only after an infirmary is established the law should be put into force. As the Government have the power to extend the Regulation to such areas as they think fit, it may be inferred that they would not put it into force if there is no infirmary for cases of the kind referred to in section 6. Mr. Kuruvila proposes to state explicitly what, in my opinion, is implied in the sections as they now stand. I, therefore, agree to the amendment.

Mr. Rajaram Row.—The expression "such local area as he thinks fit" in the section gives the Government ample powers. It may be presumed that the Regulation will not be applied to any place where there would be any practical difficulty. I do not think the want of an infirmary will be considered a real difficulty. The discretionary power vested in the Government is enough to meet all cases. I do not, therefore, support the motion.

Mr. Kesava Pillai.—I support the amendment. The tendency on the part of our people to prefer false complaints against their enemies and drag them to the courts will only be encouraged by any law which affords them facilities for doing so. Mr. Kuruvila's amendment contains, I think, a necessary limitation. If the amendment is carried, the Regulation would apply only to towns where there is an infirmary and a society for the prevention of cruelty to animals. There would thus be a guarantee against unnecessary or malicious prosecutions. In the country parts, people are prone to prefer false complaints out of grudge, and, as such, it is desirable to restrict the operation of the law to the towns. I am, therefore, in favor of the amendment.

Mr. Padmanabha Menon.—I am not for the amendment. I think the expression "such local area as he thinks fit" used in the section is a sufficient safeguard. To restrict the power of Government in the manner contemplated by the amendment would, I am afraid, defeat the object of the Bill. We may presume that the Regulation will not be extended to places where it is not possible to work the law smoothly or satisfactorily.

President.—I see that there is much divergence of opinion in the minds of the members in regard to the amendment proposed. There is no doubt much force in the argument that, in rural parts, there is not the same safeguard as in towns against reckless or malicious prosecutions. We must, therefore, proceed with caution. In the towns under the Town Improvement Committees, there is always a guarantee that no prosecution will be started without due consideration and in all such towns, there is, besides, the superior Magistracy, who can be resorted to for timely redress of grievances. I would, therefore, suggest for the consideration of the Council whether, instead of restricting the law to areas where there is an infirmary and a society for the prevention of cruelty to animals, it would not be sufficient if it is made applicable to our Municipal towns under Regulation III of 1076. I simply offer this as a suggestion for you to consider.

Mr. Kuruvila.—It is always with great submission that I receive the kind suggestions from the President. I have already submitted my reasons for the amendment. As Mr. Kesava Pillai observed, there is the danger of malicious prosecutions to be guarded against in the present state of our society. My fear is that, unless there is a strong public opinion and a society for the prevention of cruelty to animals, the law may be turned into an engine of oppression in the hands of petty officials. No such society exists even in Trivandrum and it may be doubted whether

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any place in Travancore is yet ripe for this law. The mover of the Bill is of course actuated by a noble sentiment; but we must remember that a European mind is the result of a high civilisation. In the altered circumstances of this country, ignorance, vindictiveness and short-sighted oppression are the order of the day. Too much care, therefore, cannot be taken in passing a new law which may lead to abuse of power and consequent oppression. In the Kottayam market, for instance, about 200 bulls may be seen on a market-day, of which not more than 5 per cent may be perfectly sound. To a European mind, it might appear revolting that animals which are not perfectly sound should be used for work. The owner's necessity, however, compels him to use his bulls for taking his goods to the market. It may be that there is a sore here or a wound there, for which the owner is perhaps treating the animal while he is also using it for work. It is his absolute property and may, in fact, have been recently purchased in order that his business might not suffer. In such cases, it would be real oppression if a police constable has it in his power to prosecute the man by construing an innocent act into a technical offence under the law. I pray, therefore, that the Council will kindly consider whether the amendment I proposed does not contain a necessary safeguard for the innocent public.

President.—I am perfectly at one with the mover of the amendment as to the necessity for safeguarding the interests of the public. It is the clear duty of the Legislature, in passing a new law, to avoid all chances of abuse of power in the hands of low-paid officials. There is, I believe, no difference of opinion as to the main purpose of the measure *viz.*, to prevent cruelty to animals. We are only following the lead of other civilised countries in this respect, and with the steady progress of education and intellectual development in this country, which is discernible in so many directions, I am not at all sure whether it is too soon to inaugurate a measure of this kind. The only question is, to which places the new law should be made applicable. The section as it stands leaves it discretionary with Government to put the law in force in such local areas as may be determined on from time to time. The amendment seeks to restrict this discretion of Government by a distinct provision in the law itself as to the places to which it can be extended. The gist of the arguments adduced amounts to this, that it is safer to limit the operation of the law to places where there is an enlightened public body, who may be trusted to take the initiative under the law with due care and caution. The course I suggested is fully in keeping with this view, for the towns under Regulation III of 1076 are centres of educational, commercial and intellectual activity and may be expected to contain the necessary safeguards against abuse of power. There is thus no real difference between the amendment proposed and the modification suggested by me. In regard to infirmaries, to which also reference is made in the amendment, I would point out that it need not be a necessary condition for extending the main provisions of the law. The provisions of section 6 seem to me to contemplate cases of an exceptional nature, in which professional treatment may be neccessary. It may not be possible to establish, for treatment of animals, infirmaries with a veterinary surgeon in all places where it would be desirable to introduce the law for the punishment of cruelty to animals.

Mr. Govinda Pillai.—In the light of the observations made by the President, it seems to me that the modification suggested will meet the object which Mr. Kuruvila has in view. In the absence of societies for the prevention of cruelty to animals, the Town Improvement Committees may be expected to take the necessary action and also supply the necessary check to vexatious proceedings. I beg, therefore, to propose that the words " such local areas as have been declared Towns under Regulation III of 1076 " be substituted for " such local area as he thinks fit."

Seconded by Mr. Padmanabha Menon.

After some further discussion, Mr. Govinda Pillai's amendment was carried.

Mr. Govinda Pillai.—I beg to propose that the words " This section extends to the whole of Travancore ; and " at the beginning of clause (2) be omitted. The above words were taken from Act XI of 1890 of British India, where there were previously different Regulations in force in each province, and hence it was necessary to extend section 1 to the whole of British India. (See the Hon'ble Mr. Hutchins' speech in

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the Fort St. George Gazette of the 18th February 1890). As we have no such prior enactments here, the phraseology is unnecessary and may be struck out.

Seconded by Mr. Kuruvila.

Carried.

Mr. Govinda Pillai.—I beg to propose that, in line 6 of the same clause, the words "the rest of" be omitted. This is a verbal amendment consequent on the one just carried.

Seconded by Mr. Kesava Pillai.

Carried.

Sections 6 and 7.

Mr. Govinda Pillai.—I beg to propose that the word "wilfully" be inserted between "or" and "permits" in line 7 of section 6 and between "excuse" and "permits" in line 7 of section 7. The term "wilfully" occurs in the first line of section 7 and may, I think, be inserted with advantage in the two places I have mentioned. This amendment will make it clear that the owner of the animal ill-treated will not be liable to punishment on the ground of any implied permission but only for intentionally giving such permission.

Seconded by Mr. Ferguson.

Carried.

Section 6, clause (3).

Mr. Kuruvila.—I beg to propose that the words "if the owner refuses to take proper care of the animal under his own charge" be inserted between "may" and "direct" in line 3 of this clause. This amendment is intended to prevent avoidable hardship to owners of working sick animals. Even sick *men* are not forced to go to hospital when they have lodging or accommodation. The faith of the responsible relations and their discretion are allowed free play to select the method and place of treatment. I think, therefore, that the animals referred to in the section should be sent to the infirmary only when the owners refuse to take proper care of them.

Seconded by Mr. Dharmaraja Iyer.

Mr. Ferguson.—I am opposed to this amendment. The section would be applied only in very bad cases. Ordinarily, a Magistrate would only fine the offender but, in exceptional cases, he may find it necessary to send the animal to an infirmary for treatment. The amendment, if carried, will take away the benefit contemplated by the section, as every owner would, if given the option, undertake to treat the animal under his own charge.

President.—There may be respectable persons whose word the Magistrate may be disposed to accept as sufficient guarantee for the treatment of the animal. In the majority of cases, it will not be the owner but the driver that commits the offence punishable under this law. As an additional precaution, the Magistrate may also be empowered to demand security, if deemed necessary, for the proper treatment of the animal.

Mr. Rajaram Row.—I support the amendment but would add the words "or neglects" after "refuses". It appears to me that, in granting the concession contemplated by the amendment to owners of animals, it is well to provide for cases of neglect as well as refusal.

Mr. Kuruvila.—I accept the modification suggested with pleasure.

After some discussion, the amendment, modified as above, was carried by majority.

Mr. Govinda Pillai.—I beg to propose that the following para be added at the end of clause (3):—

"The Magistrate may also require security to be given for the treatment of the animal for any amount not exceeding the value of such animal."

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This para appears necessary for practical working and will cover cases of the kind referred to by the President. As we have no infirmaries in all places, it is well to empower the Magistrate to accept security for the treatment of the animal, in cases where he may not be satisfied with the word of the owner.

Seconded by Mr. Ferguson.

After some discussion, the amendment was carried by majority.

Section 8.

Mr. Kuruvila.—I beg to propose that this section be omitted. It empowers the superior Magistrates and Police officers to issue search-warrants in certain cases to bring to light offences under this law. To my humble thinking, it is necessary to maintain a due proportion between the gravity of an offence against the duty of charity towards an animal kept in a private place and that of an interruption of the peace and dignity of a human home under the shadow of a penal law. The object of the Bill should, I think, be confined to cases brought to public gaze and should not extend to cases requiring search-warrants.

Seconded by Mr. Kesava Pillai.

Mr. Ferguson.—I have no objection to the amendment. I do not wish to be considered inquisitorial.

Carried.

Section 9.

Mr. Kuruvila.—I beg to propose that the following words be substituted for "after" in line 4:—

"except with the written sanction of the President of the Committee for the improvement of the Town in which the offence has been committed and except before"

This amendment is intended to ensure that a superior officer's discretion is invited at the initial stage to decide whether a case of cruelty is one deserving of the grave treatment contemplated by the Bill. This is very necessary to prevent both vindictive action by unscrupulous authorities and abnormally sentimental enthusiasm on the part of over-scrupulous members of societies for the prevention of cruelty to animals. The President of the Town Improvement Committee, whether an official or a non-official, can be expected to know and guide ordinary public feeling in the Town. Under Regulation III of 1076, it is the President that is empowered to take action on his own responsibility in cases of emergency (vide section 69) for the prevention of epidemic diseases; and under the same law, the permission of the Committee is necessary for starting prosecutions for several offences. I solicit your kind acceptance of the amendment proposed.

Seconded by Mr. Kesava Pillai.

Carried by majority.

Mr. Ferguson.—I beg to propose that the Bill as now amended be read again on a future day of which notice shall be given.

The motion was put and agreed to.

LUNACY BILL.

Mr. Govinda Pillai.—I beg to present the Report of the Select Committee on the Lunacy Bill and move that the Report and the Amended Bill be published in the Gazette and the consideration of the Bill taken up at the next meeting.

The motion was put and agreed to.

The Council adjourned at 6 P. M.

K. KRISHNASWAMY RAO,
President.

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